

LOCAL BANKRUPTCY FORM 9019-3(a)

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

IN RE:

	:	CHAPTER 13
	:	
	:	CASE NO. ____-____-bk-_____
	:	
	:	
Debtor(s)	:	

**NOTICE OF MOTION AND MOTION TO PARTICIPATE IN
MORTGAGE MODIFICATION MEDIATION PROGRAM**

To: _____ and its successors, assigns and
servicing agents (“mortgage creditor”), please take notice:

The undersigned debtor [and joint debtor if applicable] (the “Debtor”) files this Motion seeking to enter into a mortgage modification agreement through the Court’s sanctioned Mortgage Modification Mediation Program (“MMM Program”).

The mortgage creditor has twenty-one (21) days from the filing of this Motion to accept or object to entry into the MMM Program. If the mortgage creditor agrees to participation, the mortgage creditor will file a Consent to Motion to Participate in Mortgage Modification (“Creditor Consent Form”), L.B.F. 9019-3(b). If the mortgage creditor objects to participation, a written objection must be filed with court. Upon written objection, the Motion to Participate will be denied without prejudice to re-filing. A Motion to Participate may only be re-filed after an objection by the mortgage creditor, if filed with the written concurrence of the mortgage creditor.

If the mortgage creditor fails to file the Creditor Consent Form or an objection to participation within twenty (21) days, the Motion to Participate will be dismissed without prejudice to re-filing.

The Debtor hereby moves the Court for authority to enter into the MMM Program. By this Motion, the Debtor agrees and certifies as follows:

Eligibility

1. The Debtor is the owner-occupant of a one- to four-unit residential property used as the Debtor's primary residence.
2. The Debtor has regular income.
3. The Debtor has an unpaid principal mortgage balance that is equal to or less than \$729,750.00 (for a one-unit property).
4. The Debtor has a mortgage payment that is not affordable due to a financial hardship that can be documented.

Participation Requirements

5. The Debtor agrees to make post-petition mortgage payments to the mortgage creditor of seventy-five percent (75%) of the Debtor's current mortgage payment (the "Modified Mortgage Payment").
6. The first Modified Mortgage Payment will be due and must be received by the mortgage creditor no later than the next monthly scheduled mortgage due date (plus any grace period) after the filing of this Motion. The only exception to this requirement is if the Debtor does not know the identity of the mortgage creditor at the time the payment is due; in that event the Debtor will make the Modified Mortgage Payment to the Debtor's attorney to be held in trust until the mortgage creditor is identified.
7. The Debtor will continue to make the Modified Mortgage Payments to the mortgage creditor each month until the MMM Program is concluded or an Order of the Court expressly states otherwise.
8. The Debtor has filed the Schedules and Statement of Financial Affairs which may be relied upon by the mortgage creditor in evaluating the Debtor's loan for modification. The Debtor will provide the mortgage creditor with the following documents:
 - (A) Signed copies of the state and federal tax returns filed in the past two (2) years; and
 - (B) All payment advices received within the last sixty (60) days of the date of this Motion.
9. The Debtor will provide the mortgage creditor with all other reasonably requested financial records no later than twenty-one (21) days after the creditor files the Creditor Consent Form.

10. The Debtor and the mortgage creditor will each pay \$125.00 (the “Mediation Fee”) to the Mediator, no later than fourteen (14) days after appointment of the Mediator. Mediators do not accept personal checks for the Mediation Fee.
11. The Debtor agrees to appear and participate in good faith in the mediation sessions. The Mediation Fee is nonrefundable even if the Debtor does not appear or does not agree with the outcome of the mediation session.

Agreed Modification of the Automatic Stay

The Debtor understands, agrees and consents to a Court order modifying the automatic stay as follows:

12. The automatic stay is immediately modified as of the date of this Motion to permit the mortgage creditor to request information, evaluate and analyze the Debtor’s financial situation, participate in the mortgage modification process and negotiate loan modification terms.
13. Debtor agrees that in the event Debtor misses one of the modified mortgage payments, the mortgage creditor may file a Motion for Relief from the Automatic Stay and seek removal of the debtor from the MMM Program.
14. If no agreement is reached as a result of the mediation, unless the creditor expressly agrees to extend the time or the Court orders otherwise, the Debtor shall file a modified plan within 21 days of the filing of the Mediator’s report to address the treatment of the pre-petition mortgage arrears and any post-petition arrears that may have accrued. If an amended Chapter 13 Plan is not filed, the mortgage creditor may file a Motion for Relief from the Automatic Stay.

Mediation Conclusion

15. The MMM Program will conclude no later than sixty (60) days after a mediator is selected, unless the mediator changes the date and time for the mediation session. In any event, the mediation session must place within seventy-five (75) days of the date of the order of referral. Any continuance of the session beyond seventy-five (75) days must be approved by the court. At that conclusion of the mediation session, the Mediator will issue a report to the Court.

No Modification Agreement Reached

16. If the Mediator’s report advises that no agreement was reached, the Debtor and mortgage creditor can agree to extend the deadline for the parties to attempt to reach agreement. The extension agreement must be in writing, and filed with the Court.
17. If no such extension agreement is filed within seven (7) days of the Mediator’s report, then the Debtor will have fourteen (14) additional days (twenty-one (21) days after the filing of the mediator’s report) to file a modified, feasible plan.

Failure to file a modified feasible plan within this deadline may be grounds for the mortgage creditor to file a Motion for Relief.

Mortgage Modification Agreement Reached

18. If a modification is agreed upon, the Debtor will cooperate in promptly formalizing any needed legal documents and seek any necessary court approval for the mortgage modification.

WHEREFORE, the Debtor requests that the Court enter an Order authorizing the Debtor and the mortgage creditor to enter into the MMM Program.

Dated: _____
Debtor's Signature

Dated: _____
Joint Debtor's Signature

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CERTIFICATE OF SERVICE

The Debtor's attorney certifies that on _____ (date), I served, or caused to be served, a copy of the **NOTICE OF MOTION AND MOTION TO PARTICIPATE IN MORTGAGE MODIFICATION MEDIATION PROGRAM** by (describe method of service) on the mortgage creditor, its counsel (if known), and the Chapter 13 Trustee at the following addresses: